IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1197 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMIT BHADRAKANT PAREKH

Versus

THE STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 1197 of 2004

MR YV BRAHMBHATT for Petitioner No. 1

MR AY KOGJE, APP for Respondent No. 1

..... for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 05/11/2004

ORAL JUDGEMENT

1. Heard ld. counsel Mr. Brahmbhatt appearing for

the petitioner. The present petition is moved invoking jurisdiction of this Court under Articles 226 & 227 of the Constitution of India and under Sec.482 of CrPC praying that parties have compounded the matter out of Court and criminal proceedings being Cri. Case No.2817/2003 pending in the Court of ld. JMFC, Kalol may be terminated. It is submitted by ld. counsel Mr. Brahmbhatt for the petitioner accused that basically the dispute was of civil nature, but ultimately the criminal proceedings came to be initiated for the offences punishable under Sections 406, 420 of Indian Penal Code. The parties had produced compromise before the trial Court and requested the trial Court that they may be permitted to compound the offence in view of the scheme of Sec.320 of CrPC. However, the ld. trial Judge has observed that in view of the amount involved, it would not be legal for the Court to record compromise and treat the offence compounded as the same is above Rs.250/ and compromise was not accepted.

2. Placing reliance on certain decisions of the Apex Court and of this Court, it is submitted by ld. counsel Mr. Brahmbhatt for the petitioner that this Court should terminate the proceedings and no criminal proceedings should be prolonged which may not bring the fruitful result and if parties have settled the matter out of Court, such litigation should not be permitted to continue for the sake of continuing it.

3. Having considered the facts and circumstances of the case, there is an element of civil nature in the dispute. Original complainant -respondent no.2 is present before the Court and he also confirms the submissions made by ld. counsel Mr. Brahmbhatt appearing for the petitioner. In view of above, petition requires to be allowed.

4. Hence, Rule. Ld. APP Mr. AY Kogje appears and waives service of Rule for respondent No.1 State and respondent No.2 Trivedi Snehalkumar Buddhiprasad-original complainant appears and waives service of Rule. Advocates appearing for the parties in the trial Court who are also present in the Court namely Shri GP Gadhavi and Shri PN Barot also identify the original complainant and state that the matter is compounded out of court by the parties and complainant is going to get even some amount today as per compromise.

5. In view of the facts and circumstances narrated above and settled legal position, proceedings of Criminal Case No.2817/2003 pending in the Court of ld. JMFC, Kalol are hereby quashed and set aside and stand terminated. It is submitted by ld. counsel Mr. Brahmbhatt that the petitioner is at present in Sub Jail, Mehsana. Initially, he was granted bail, but in view of

stringent conditions imposed while granting bail, he was not able to get released himself on bail. In view of above, in view of termination of the criminal proceedings against the petitioner accused, petitioner accused is ordered to be set at liberty forthwith if not required in any other case. Directions to trial Court as well as Sub-Jail, Mehsana accordingly.

6. Rule is made absolute accordingly. D.S. Permitted.

[C.K. BUCH, J]

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